

CALIFORNIA WATER CODE

13050. Definitions.

As used in this division:

- (a) “State board” means the State Water Resources Control Board.
- (b) “Regional board” means any California regional water quality control board for a region as specified in Section 13200.
- (c) “Person” includes any city, county, district, the state, and the United States, to the extent authorized by federal law.
- (d) “Waste” includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.
- (e) “Waters of the state” means any surface water or groundwater, including saline waters, within the boundaries of the state.
- (f) “Beneficial uses” of the waters of the state that may be protected against quality degradation include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.
- (g) “Quality of the water” refers to chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affect its use.
- (h) “Water quality objectives” means the limits or levels of water quality constituents or characteristics of water which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.
- (i) “Water quality control” means the regulation of any activity or factor which may affect the quality of the waters of the state and includes the prevention and correction of water pollution and nuisance.
- (j) “Water quality control plan” consists of a designation or establishment for the waters within a specified area of all of the following:
 - (1) Beneficial uses to be protected.
 - (2) Water quality objectives.
 - (3) A program of implementation needed for achieving water quality objectives.

- (k) “Contamination” means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. “Contamination” includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.
- (l) (1) “Pollution” means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:
 - (A) The waters for beneficial uses.
 - (B) Facilities which serve these beneficial uses.
- (2) “Pollution” may include “contamination.”
- (m) “Nuisance” means anything which meets all of the following requirements:
 - (1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
 - (2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
 - (3) Occurs during or as a result of, the treatment of disposal of wastes.
- (n) “Recycled Water” means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefor considered a valuable resource.
- (o) “Citizen or domiciliary” of the state includes a foreign corporation having substantial business contacts in the state or which is subject to service of process in this state.
- (p) (1) “Hazardous substance” means either of the following:
 - (A) For discharge to surface waters, any substance determined to be a hazardous substance pursuant to Section 311(b)(2) of the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).
 - (B) For discharge to groundwater, any substance listed as a hazardous waste or hazardous material pursuant to Section 25140 of the Health and Safety Code, without regard to whether the substance is intended to be used, reused, or discarded, except that “hazardous substances” does not include any substance excluded from Section 311(b)(2) of the Federal Water Pollution Control, Act because it is within the scope of Section 311(a)(1) of this act.

(2) “Hazardous substance” does not include any of the following:

- (A) Nontoxic, nonflammable, and noncorrosive stormwater runoff drained from underground vaults, chambers, or manholes into gutters or storm sewers.
- (B) Any pesticide which is applied for agricultural purposes or is applied in accordance with a cooperative agreement authorized by Section 116180 of the Health and Safety Code, and is not discharged accidentally or for purposes of disposal, the application of which is in compliance with all applicable state and federal laws and regulations.
- (C) Any discharge to surface water of a quantity less than a reportable quantity as determined by regulations issued pursuant to Section 311(b)(4) of the Federal Water Pollution Control Act.
- (D) Any discharge to land which results, or probably will result, in a discharge to groundwater if the amount of the discharge to land is less than a reportable quantity, as determined by regulations adopted pursuant to Section 13271, for substances listed as hazardous pursuant to Section 25140 of the Health and Safety Code. No discharge shall be deemed a discharge of a reportable quantity until regulations set a reportable quantity for the substance discharged.

(q) (1) “Mining waste” means all solid, semisolid, and liquid waste materials from the extraction, beneficiation, and processing of ores and minerals. Mining waste includes, but is not limited to, soil, waste rock, and overburden, as defined in Section 2732 of the Public Resources Code, and tailings, slag, and other processed waste materials, including cementitious materials that are managed at the cement manufacturing facility where the materials were generated.

(2) For the purposes of this subdivision, “cementitious material” means cement, cement kiln dust, clinker, and clinker dust.

(r) “Master recycling permit” means a permit issued to a supplier or a distributor, or both, of recycled water, that includes waste discharge requirements prescribed pursuant to Section 13263 and the water recycling requirements prescribed pursuant to Section 13523.1.

13140. Policy Adoption.

The state board shall formulate and adopt state policy for water quality control. Such policy shall be adopted in accordance with the provisions of this article and shall be in conformity with the policies set forth in Chapter 1 (commencing with Section 13000).

13268. Civil Liability.

- (a) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or failing or refusing to furnish a statement of compliance as required by subdivision (b) of Section 13399.2, or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).
- (b) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.
- (c) Any person discharging hazardous waste, as defined in Section 25117 of the Health and Safety Code, knowingly failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, or knowingly falsifying any information provided therein, is guilty of a misdemeanor and may be civilly liable in accordance with subdivision (d).

This subdivision shall not be applicable to any waste discharge which is subject to Chapter 5.5 (commencing with Section 13370).

- (d) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 13350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.

13350. Civil Liability; amount; recovery

- (a) Any person who (1) intentionally or negligently violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, or (2) in violation of any waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, intentionally or negligently discharges waste, or causes or permits waste to be deposited where it is discharged,

into the waters of the state, and creates a condition of pollution or nuisance, or (3) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste discharge requirements or other provisions of this division, shall be liable civilly in accordance with subdivision (d) or (e).

- (b) (1) Any person who, without regard to intent or negligence, causes or permits any hazardous substance to be discharged in or on any of the waters of the state where it creates a condition of pollution or nuisance, except in accordance with waste discharge requirements or other provisions of this division, shall be strictly liable civilly in accordance with subdivision (d) or (e).
- (2) For purposes of this subdivision, the term "discharge" includes only those discharges for which Section 13260 directs that a report of waste discharge shall be filed with the regional board.
- (3) For purposes of this subdivision, the term "discharge" does not include any emission excluded from the applicability of Section 311 of the Clean Water Act (33 U.S.C. Sec. 1321) pursuant to Environmental Protection Agency regulations interpreting Section 311 (a)(2) of the Clean Water Act (33 U.S.C. Sec. 1321(a)(2)).
- (c) There shall be no liability under subdivision (b) if the discharge is caused solely by any one or combination of the following:
 - (1) An act of war.
 - (2) An unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.
 - (3) Negligence on the part of the state, the United States, or any department or agency thereof; provided, that this paragraph shall not be interpreted to provide the state, the United States, or any department or agency thereof a defense to liability for any discharge caused by its own negligence.
 - (4) An intentional act of a third party, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.
 - (5) Any other circumstance or event which causes the discharge despite the exercise of every reasonable precaution to prevent or mitigate the discharge.
- (d) The court may impose civil liability either on a daily basis or on a per gallon basis, but not both.

- (1) The civil liability on a daily basis may not exceed fifteen thousand dollars (\$15,000) for each day the violation occurs.
- (2) The civil liability on a per gallon basis may not exceed twenty dollars (\$20) for each gallon of waste discharged.
- (e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.
 - (1) The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs.
 - (A) When there is a discharge, and a cleanup and abatement order is issued, except as provided in subdivision
 - (f), the civil liability shall not be less than five hundred dollars (\$500) for each day in which the discharge occurs and for each day the cleanup and abatement order is violated.
 - (B) When there is no discharge, but an order issued by the regional board is violated, except as provided in subdivision (f), the civil liability shall not be less than one hundred dollars (\$100) for each day in which the violation occurs.
 - (2) The civil liability on a per gallon basis may not exceed ten dollars (\$10) for each gallon of waste discharged. (f) A regional board may not administratively impose civil liability in accordance with paragraph (1) of subdivision (e) in an amount less than the minimum amount specified, unless the regional board makes express findings setting forth the reasons for its action based upon the specific factors required to be considered pursuant to Section 13327.
- (g) The Attorney General, upon request of a regional board or the state board, shall petition the superior court to impose, assess, and recover such sums. Except in the case of a violation of a cease and desist order, a regional board or the state board shall make such request only after a hearing, with due notice of the hearing given to all affected persons. In determining such amount, the court shall be subject to Section 13351.
- (h) The provisions of Article 3 (commencing with Section 13330) and Article 6 (commencing with Section 13360) of this chapter shall apply to proceedings to impose, assess, and recover an amount pursuant to this article.
- (i) Any person who incurs any liability established under this section shall be entitled to contribution for such liability from any third party, in an action in the superior court and upon proof that the discharge was caused in whole or in part by an act or omission

of the third party, to the extent that the discharge is caused by the act or omission of the third party, in accordance with the principles of comparative fault.

- (j) Remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal, except that no liability shall be recoverable under subdivision (b) for any discharge for which liability is recovered under Section 13385.
- (k) The state board shall submit an annual report to the Legislature which shall be available to the public, list all instances in which civil liability has been administratively imposed by a regional board in accordance with subdivision (e) during the preceding year, and indicate the maximum amount of liability which could have been imposed and the amount actually imposed in each instance.

CALIFORNIA HEALTH AND SAFETY CODE

25157.8.

- (a) Except as provided in subdivision (c), on and after January 1, 1999, no person shall dispose waste that contains total lead in excess of 350 parts per million, copper in excess of 2500 parts per million, or nickel in excess of 2000 parts per million to land at other than a class I hazardous waste disposal facility, unless the waste is disposed at the site of generation pursuant to express approval of the regional water quality control board granted prior to August 21, 1998, and the waste was classified as nonhazardous at that time, until both of the following occur:
 - (1) The appropriate California regional water quality control board has amended the solid waste facility's waste discharge requirements to specifically allow disposal of the waste.
 - (2) The appropriate local enforcement agency has revised the solid waste facility permit of the facility to specifically allow this disposal pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code.
- (b) Except as provided in subdivision (c), no person shall dispose any material to land at other than a class I hazardous waste disposal facility, if the material is regulated as a hazardous waste by the department, until all of the following have occurred:
 - (1) The department has issued a variance pursuant to Section 25143 to specifically allow disposal of the material to a disposal facility other than a class I hazardous waste disposal facility.
 - (2) The appropriate California regional water quality control board has amended the solid waste facility's waste discharge requirements to specifically allow disposal of the material.
 - (3) The appropriate local enforcement agency has revised the solid waste facility permit of the facility at which the material is proposed to be disposed to specifically allow this disposal pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code.
- (c) This section does not apply to any of the following:
 - (1) Wastes that are disposed of pursuant to a variance issued by the department prior to August 21, 1998.
 - (2) Wastes that are disposed of pursuant to a variance issued by the department and that the department classified and managed as a "special waste" pursuant to regulations adopted by the department that were in effect on August 21, 1998.

- (3) Wastes disposed of pursuant to a variance issued to a state or local agency by the department pursuant to Section 25143 for the disposal of lead contaminated soil, if the disposal is only within the operating right-of-way of an existing highway, as defined in Section 23 of the Streets and Highways Code. This paragraph applies to lead-contaminated soil that is moved from one project to another only if the lead-contaminated soil remains within the designated, contiguously contaminated corridor and within the same transportation district for which the department has specifically issued the variance.
- (d) This section does not exempt any state or local agency, or any other person, from any conditions or requirements of a California regional water quality control board, or any other agency, that may be placed on the reuse or disposal of waste pursuant to a variance issued by the department.
- (e) This section shall remain in effect until July 1, 2006, and as of that date is repealed unless a later enacted statute repeals or extends that date.